

Jeffrey T. Golenbock (JG-2217)
 GOLENBOCK EISEMAN ASSOR
 BELL & PESKOE LLP
 437 Madison Avenue, 35th Floor
 New York, New York 10022-7302
 Tel: (212) 907-7300
 Fax: (212) 754-0330

Attorneys for Phillip R. Bennett

Norman L. Eisen (admitted *pro hac vice*)
 Laura E. Neish (LN-0040)
 ZUCKERMAN SPAEDER LLP
 1540 Broadway, Suite 1604
 New York, New York 10036-4039
 Tel: (212) 704-9600

Attorneys for Tone N. Grant

Gabriel Del Virginia (GV-4951)
 LAW OFFICES OF GABRIEL DEL VIRGINIA
 641 Lexington Avenue, 21st Floor
 New York, New York 10022
 Tel: (212) 371-5478

-and-

Barbara Moses (BM-2952)
 MORVILLO, ABRAMOWITZ, GRAND,
 IASON, ANELLO & BOHRER, P.C.
 565 Fifth Avenue
 New York, New York 10017
 Tel: (212) 856-9600
 Fax: (212) 856-9494

Attorneys for Robert C. Trosten

UNITED STATES DISTRICT COURT
 SOUTHERN DISTRICT OF NEW YORK

-----X	
In re:	:
REFCO, INC., et al.,	:
Debtors.	:
-----X	
AXIS REINSURANCE COMPANY,	:
	:
Plaintiff,	:
	:
v.	:
	:
PHILLIP R. BENNETT,	:
	:
Defendants.	:
-----X	
TONE N. GRANT, ROBERT C. TROSTEN, AND	:
PHILLIP R. BENNETT,	:
	:
Plaintiffs,	:
	:
v.	:
	:
AXIS REINSURANCE COMPANY,	:
	:
Defendant.	:
-----X	

Chapter 11
 Case No. 05-60006 (RDD)
 (Jointly Administered)

Adv. Proc. No. 07-1712-rdd

Adv. Proc. No. 07-2005-rdd

Electronically Filed

-----X		
LEO R. BREITMAN, et al.	:	
	:	
Plaintiffs,	:	
	:	Adv. Proc. No. 07-2032-rdd
v.	:	
	:	
AXIS REINSURANCE COMPANY,	:	
	:	
Defendant.	:	
-----X		

**APPELLEES' COUNTER-DESIGNATION OF ITEMS IN RECORD ON
APPEAL AND COUNTER-STATEMENT OF ISSUE PRESENTED**

Pursuant to Fed R. Bankr. P. Rule 8006, Appellees Tone N. Grant, Robert C. Trosten and Phillip R. Bennett (collectively, the "Grant Plaintiffs"), by counsel, hereby submit the following counter-designation of an additional item to be included in the record on appeal and counter-statement of the issue on appeal in connection with the appeal of Axis Reinsurance Company ("Axis") from the Order Granting Motions for Summary Judgment entered by the U.S. Bankruptcy Court for the Southern District of New York on October 19, 2007. The Grant Plaintiffs respectfully submit as follows:

COUNTER-DESIGNATION OF RECORD

1. Motion by Defendants Bennett, Trosten and Grant to Compel Advancement and Dismiss the Complaint, or, if the Complaint is not Dismissed, to Stay Further Proceedings Against Them Pending the Outcome of Their Criminal Trial, dated July 12, 2007, (Docket No. 13, Adv. Proc. 07-01712-rdd (Bankr. S.D.N.Y.), annexed hereto as Exhibit 1.

COUNTER-STATEMENT OF ISSUE ON APPEAL

1. Did the Bankruptcy Court err in granting the Grant Plaintiffs' Motion for Summary Judgment to Require Axis to Advance Defense Costs in the Underlying Litigations, where the unambiguous language of the Axis Policy provides that Axis must pay insureds' defense costs as they are incurred pending a final determination of coverage under the Axis Policy, and the insureds have incurred and continue to incur defense costs in actions that facially fall within the scope of the policy?

Dated: New York, New York
November 2, 2007

Signed: s/ Norman L. Eisen
Norman L. Eisen (*pro hac vice*)
Laura E. Neish (LN-0040)
Zuckerman Spaeder LLP
Attorneys for Defendant/Appellee
Tone N. Grant
1540 Broadway, Suite 1604
New York, New York 10036
Tel: (212) 704-9600
Fax: (212) 704-4256

s/ Jeffrey T. Golenbock
Jeffrey T. Golenbock (JG-2217)
Golenbock Eiseman Assor
Bell & Peskoe LLP
Attorneys for Defendant/Appellee
Phillip R. Bennett
437 Madison Avenue, 35th Floor
New York, New York 10022-7302
Tel: (212) 907-7300
Fax: (212) 754-0330

s/ Gabriel Del Virginia
Gabriel Del Virginia (GV-4951)
Law Offices Of Gabriel Del Virginia
641 Lexington Avenue, 21st Floor
New York, New York 10022
Tel: (212) 371-5478

-and-

Barbara Moses (BM-2952)
Morvillo, Abramowitz, Grand,
Iason, Anello & Bohrer, P.C.
Attorneys for Robert C. Trosten
565 Fifth Avenue
New York, New York 10017
Tel: (212) 856-9600
Fax: (212) 856-9494